



# MEMORANDUM

March 11, 2010

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator  
Paul P. Holzen, P.E., Staff Engineer II  
Eric J. Gardner, P.E., Director of Engineering  
David Parker, City Engineer

SUBJECT: Resolution 2010-16; A Resolution Authorizing Condemnation for the Acquisition of Property for the Boyd Mill Ave Improvements.

## **Purpose**

The purpose of this memorandum is to present to the Board of the Mayor and Aldermen (BOMA) Resolution 2010-16, authorizing condemnation for the acquisition of the remaining Right of Way and easements for the Boyd Mill Ave Project.

## **Background**

On June 23, 2009 BOMA approved funding for property acquisition on the Boyd Mill Ave Project in an amount not to exceed **\$115,000.00**. Since then, staff has sent out formal offer letters, met with all of the property owners and purchased Right of Way and easements from a portion of the properties necessary for this project. Offer letters were sent out on Oct. 30, 2009, Dec. 14<sup>th</sup> 2009 and/or Jan 13, 2009 to all of the affected property owners. At this time 2 of the 15 property owners have not committed to settle for the offered amount.

In order to prevent the acquisition process from dragging out longer, staff has written Resolution 2010-16 to begin condemnation proceedings. Staff will continue to work with the remaining property owners and only use condemnation as a last resort.

The Resolution was deferred at the February 23, 2010 BOMA meeting until the March 23, 2010 meeting.

## **Financial Impact**

### **ROW Acquisition Cost as of 3/11/2010 (Paid by City)**

ROW/Easement Cost: \$42,271.00

Appraisal Cost: \$18,000

Title Search Cost: \$4,500

**Total Cost: \$64,771**

### **Remaining ROW/Easement Appraised Value**

Franklin Green HOA - \$255.00

Tennessee Valley Authority - \$3,205.00

**Total Remaining ROW/Easement Appraised Value – \$3,460.00**



At the time that BOMA approved the acquisition of right-of-way, the Fiscal Year 2008-2009 proposed capital budget included funding of \$1.6 million for the Boyd Mill Improvements Project. Although the Board approved the acquisition, funding for right of way purchase was not included as a carryover in the FY2010 budget. A budget ordinance is needed to address the budget aspect of the acquisition of land approved by the Board in May, 2009. There is some capacity in the recent bond issue to address this action.

**Recommendation**

Staff recommends approval of Resolution 2010-16 authorizing condemnation, if necessary, to finalize right of way and easement acquisition for the Boyd Mill Ave Project.

## RESOLUTION 2010-16

### A RESOLUTION AUTHORIZING CONDEMNATION FOR THE ACQUISITION OF PROPERTY FOR THE CONSTRUCTION OF BOYD MILL AVE IMPROVEMENTS

**WHEREAS**, the Board of Mayor and Aldermen has determined that the construction of certain road improvements within the City limits of Franklin is necessary, suitable and desirable for the public welfare; and

**WHEREAS**, these improvements are generally described as the construction of Boyd Mill Ave as shown on Proposed Layout Plans prepared by Wisner Company dated October 6, 2009; and

**WHEREAS**, it will be necessary in connection with the construction of the improvements for the City to obtain rights of way (property) from landowners; and

**WHEREAS**, the Board has previously approved a budget for the above-described road projects, which includes amounts allocated for right-of-way (property) acquisition; and

**WHEREAS**, the Boyd Mill Ave Improvements Project is ranked number twenty-four on the Board of Mayor and Alderman's most recent (12-22-2009) priority ranking; and

**WHEREAS**, the Board expressly finds that the City has the power of eminent domain to extend public roads, see T.C.A. §29-17-201 *et seq.* and to acquire easements and rights-of-way necessary for proper completion of the said improvements, and that the acquisition of such easements and/or rights-of-way is for a public purpose and for a public use, and that the acquisition of the private property hereinafter described is

necessary to accomplish said public use;

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE,** that the City Engineer and /or City Attorney, are authorized to obtain the necessary rights-of-way, permanent easements and/or temporary easements across the properties listed in Exhibit A hereto and may enter into agreements with property owners with respect to the compensation to be paid for the said rights of way and easements, so long as such amounts are reasonable, within the project budget and supported by a qualified appraisal.

The City Engineer and City Attorney are authorized to continue negotiating with any landowner for the acquisition of the rights-of-way and/or easements without resort to condemnation. However, if an impasse is reached with a property and condemnation is the only alternative, then the City Attorney is authorized to commence necessary condemnation proceedings. After condemnation proceedings have commenced, the City Engineer and /or City Attorney, are authorized to enter into settlement agreements with property owners with respect to the compensation to be paid for the said rights-of-way and easements, so long as such amounts are reasonable, within the project budget and supported by a qualified appraisal.

**IT IS SO RESOLVED AND DONE** on this the \_\_\_\_ day of \_\_\_\_\_, 2010.

**ATTEST:**

**CITY OF FRANKLIN, TENNESSEE**

By: \_\_\_\_\_  
**ERIC S. STUCKEY**  
City Administrator/Recorder

By: \_\_\_\_\_  
**JOHN C. SCHROER**  
Mayor

**Approved As To Form By Shauna Billingsley, Interim City Attorney**